

EX PARTE OR LATE FILED

Technology Law Group, L.L.C.<sup>SM</sup>

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RECEIVED

MAY 6 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Steven D. Hitchcock, ESQ.

May 6, 1999

*Via Hand Delivery*

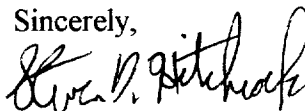
Magalie Ramon Salas  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., TWA-325  
Washington, D.C. 20554

Dear Secretary Salas:

PriceInteractive, Inc., through its attorneys and pursuant to Sections 1.415 and 1.419 of the Commission's Rules, hereby submits an original and four copies of its "Motion Requesting that the Commission Accept as Timely, *Nunc Pro Tunc*, Reply Comments Filed By Priceinteractive on May 4, 1999" in CC Docket No. 94-129 (In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996-- Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers).

Please direct any questions regarding this matter to the undersigned.

Sincerely,



Neil S. Ende  
Steven D. Hitchcock

Enclosures (original and four copies)

cc: Kimberly Parker  
Federal Communications Commission  
Common Carrier Bureau  
445 12<sup>th</sup> Street, S.W., Room 5C-827  
Washington, D.C. 20554  
(with diskette copy enclosed)

International Transcription Service, Inc.  
1231 20<sup>th</sup> Street, N.W.  
Washington, D.C. 20037  
(with diskette copy enclosed)

No. of Copies rec'd 0+4  
List A B C D E

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

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In the Matter of )  
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 Implementation of the Subscriber )  
 Carrier Selection Changes )  
 Provisions of the )  
 Telecommunications Act of 1996 )  
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 Policies and Rules Concerning )  
 Unauthorized Changes of )  
 Consumers' Long Distance )  
 Carriers )

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CC Docket No. 94-129

**RECEIVED**

MAY 6 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**MOTION REQUESTING THAT THE COMMISSION ACCEPT AS TIMELY, *NUNC PRO TUNC*, REPLY COMMENTS FILED BY PRICEINTERACTIVE ON MAY 4, 1999**

To: The Commission

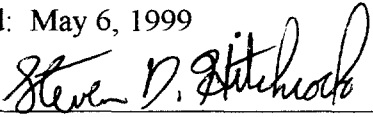
PriceInteractive, Inc. ("PriceInteractive"), through counsel, hereby requests that the Commission accept as timely filed, *nunc pro tunc*, the Reply Comments of PriceInteractive, Inc. which were filed (for submission in the above Docket) with Commission's Office of the Secretary on May 4, 1999. The facts supporting this Motion are set forth in the attached May 6, 1999 Affirmation of Steven D. Hitchcock, Esq.

As explained in the Affirmation, Technology Law Group ("TLG"), counsel for PriceInteractive, completed preparation of the Reply Comments early in the day of May 3, 1999. At approximately noon on May 3, 1999, TLG called the courier it has used for a number of years, Apollo Express Courier ("Apollo"), to hand-deliver the Reply Comments to the recipients designated in the Second Report and Order. TLG instructed Apollo to make these deliveries by 5:30PM on May 3, 1999. All three deliveries were picked up from TLG simultaneously. The copy for International Transcription Service, Inc. was delivered before 5:30PM on May 3, 1999;

however, due to the failure of Apollo, the deliveries to the other two designated recipients (the Commission's Secretary and Kim Parker of the Common Carrier Bureau) were not made before 5:30PM on May 3, 1999. These two deliveries were made at the start of business the next day, May 4, 1999, at 9:17AM.

Because these are Reply Comments, no party would be prejudiced by the Commission's acceptance of these Reply Comments as timely filed. As a result, the public interest is served by accepting PriceInteractive's filing and treating it as timely. Accordingly, TLG respectfully requests that PriceInteractive's Reply Comments be accepted for filing and treated as timely.

Dated: May 6, 1999

By:   
Neil S. Ende  
Steven D. Hitchcock

TECHNOLOGY LAW GROUP, L.L.C.  
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(202)244-8257 facsimile  
Counsel for PriceInteractive, Inc.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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|                                  |   |                      |
|----------------------------------|---|----------------------|
| In the Matter of                 | ) |                      |
|                                  | ) |                      |
| Implementation of the Subscriber | ) | CC Docket No. 94-129 |
| Carrier Selection Changes        | ) |                      |
| Provisions of the                | ) |                      |
| Telecommunications Act of 1996   | ) |                      |
|                                  | ) |                      |
| Policies and Rules Concerning    | ) |                      |
| Unauthorized Changes of          | ) |                      |
| Consumers' Long Distance         | ) |                      |
| Carriers                         | ) |                      |

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**AFFIRMATION OF STEVEN D. HITCHCOCK, ESQ.  
IN SUPPORT OF NUNC PRO TUNC MOTION**

1. I, Steven D. Hitchcock, an associate with the firm, Technology Law Group, L.L.C. ("TLG"), submit this Affirmation in support of the May 6, 1999 "Motion Requesting that the Commission Accept as Timely, *Nunc Pro Tunc*, Reply Comments Filed By Priceinteractive on May 4, 1999" ("Motion"). The facts stated below are within my personal knowledge.

2. PriceInteractive, Inc. ("PriceInteractive") filed Comments in the above Docket on March 18, 1999.

3. On May 3, 1999, TLG called Apollo Express Courier ("Apollo"), based in Falls Church, Virginia, to deliver PriceInteractive's Reply Comments to the Commission's Secretary and Kim Parker (of the Common Carrier Bureau) at 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554 (The Portals), and to the International Transcription Service, Inc. ("ITS"), the Commission's copy contractor, at 1231 20<sup>th</sup> Street, N.W., Washington, D.C. 20037. The Secretary, Ms. Parker and ITS are the designated recipients pursuant to the comment filing procedures set forth in the Second Report and Order.

Affirmation of Steven D. Hitchcock, Esq.  
May 6, 1999  
Page -2-

4. TLG has used Apollo to make filings for a number of years without delay or difficulty.

5. The Reply Comments were ready for delivery by Apollo early in the day of May 3, 1999.

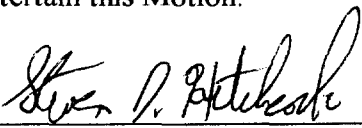
6. TLG advised Apollo (by telephone and in person) that the Reply Comments were to be delivered to the designated recipients no later than 5:30PM on May 3, 1999.

7. Apollo picked up the three deliveries simultaneously, after repeated assuring TLG that they would be delivered to the designated recipients by 5:30PM on May 3, 1999.

8. Apollo delivered the Reply Comments to ITS (on diskette) at 5:10PM on May 3, 1999 (see Exhibit 1 hereto)

9. Apollo failed to deliver the Reply Comments to the Commission's Secretary (original and nine copies) and Kim Parker (on diskette) by 5:30PM on May 3, 1999. The Reply Comments were delivered by Apollo to the Secretary and Ms. Parker at 9:17AM May 4, 1999 (see Exhibit 2 hereto).

10. TLG contacted Kim Parker and explained these circumstances. Ms. Parker called shortly thereafter and indicated that the Commission would entertain this Motion.

  
STEVEN D. HITCHCOCK

May 6, 1999

# EXHIBIT 1

May. 05 1999 10:41AM P1

770 20'.

| CONTRACTOR NUMBER        |       | CONTRACTOR NAME                        |  | DATE     |                  |              |
|--------------------------|-------|----------------------------------------|--|----------|------------------|--------------|
| 154                      |       | Bill P. P. P.                          |  | 5-3-99   |                  |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
| 12005 Amber Ridge Circle |       | [Signature]                            |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
| 1231 20th St N.W.        |       | 13 K. GRANT                            |  | 5:00     | 355841           |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
|                          |       |                                        |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
|                          |       | 14                                     |  |          |                  |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
|                          |       |                                        |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
|                          |       | 15                                     |  |          |                  |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
|                          |       |                                        |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
|                          |       | 16                                     |  |          |                  |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
|                          |       |                                        |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
|                          |       | 17                                     |  |          |                  |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
|                          |       |                                        |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
|                          |       | 18                                     |  |          |                  |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
|                          |       |                                        |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
|                          |       | 19                                     |  |          |                  |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
|                          |       |                                        |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
|                          |       | 20                                     |  |          |                  |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
|                          |       |                                        |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
|                          |       | 21                                     |  |          |                  |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
|                          |       |                                        |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
|                          |       | 22                                     |  |          |                  |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
|                          |       |                                        |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
|                          |       | 23                                     |  |          |                  |              |
| PICKUP                   | SUITE | SIGNATURE (RECEIVED IN GOOD CONDITION) |  | PIECES   | ADDITIONAL FLOOR | WAITING TIME |
|                          |       |                                        |  | RUSH     | ADDITIONAL STOP  | WEIGHT       |
| DELIVER                  | SUITE | PRINTED NAME                           |  | TICKET # | ROUND TRIP       |              |
|                          |       | 24                                     |  |          |                  |              |

# EXHIBIT 2



# MANIFEST

| CONTRACTOR NUMBER |                       | CONTRACTOR NAME |                                        | DATE        |                  |              |
|-------------------|-----------------------|-----------------|----------------------------------------|-------------|------------------|--------------|
| 154               |                       | Ric Strout      |                                        | MAY 3, 1999 |                  |              |
| PICKUP            | APOLLO BACK           | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   |                       |                 | MOORE                                  | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | WILSON TIRE           | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 11781 Lye Jackson Hwy | 300             | W. Moore                               | 9:07        | 355723           |              |
| PICKUP            | APOLLO ZONE           | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   |                       |                 | Stanford                               | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | STAN, CONCRETE WORK   | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 8360 Greenbush Dr.    | 300             | S. Stanford                            | 10:38       | 355726           |              |
| PICKUP            | APOLLO ZONE           | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   | 10065 MAIN ST         |                 | B. O'Donoghue                          | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | WISNIEWSKI BLAIR      | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 605 SCARLET LANE      | 300             | O'DONNELL                              | 11:15       | 355767           |              |
| PICKUP            | WILSON TIRE           | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   | 11781 Lye Jackson     |                 | A. Prado                               | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | WILSON, QUINCY, ZARIL | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 1025 Tom Johnson NW   | 700             | J. PRADO                               | 1:20        | 355772           |              |
| PICKUP            | WILSON TIRE           | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   | 11781 Lye Jackson     |                 | SLIPPED UNDER DOOR                     | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | WILSON RUM APPORTMENT | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 5000 Richardson Ave   | 201             | D. Barclay                             |             | 355774           |              |
| PICKUP            | WILSON RUM 4          | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   | 2345 CRIMSON DR AVE   |                 | D. Barclay                             | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | WILSON RUM 4          | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 6201 Denmark Rd       | 711             | B. Barclay                             | 4:35        | 355785           |              |
| PICKUP            | WILSON RUM 4          | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   | 2345 CRIMSON DR AVE   |                 |                                        | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | WILSON RUM 4          | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 1055 Tom Johnson St   | 650             | R. F. Patrick                          | 1:15        | 355790           |              |
| PICKUP            | WILSON RUM 4          | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   | 526 Kent St           | 211             |                                        | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | WILSON RUM 4          | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 34 PARADISE PLAZA NW  |                 | E. Anderson                            | 1:15        | 355808           |              |
| PICKUP            | WILSON RUM 4          | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   | 209 MADISON ST        | 400             |                                        | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | WILSON RUM 4          | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 209 MADISON ST        | 200             | D. Anderson                            | 1:45        | 355822           |              |
| PICKUP            | WILSON RUM 4          | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   | 2101 WILSON DR        |                 |                                        | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | WILSON RUM 4          | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 1750 ROCKVILLE PK     | 20              | E. Stephanson                          | 4:30        | 355857           |              |
| PICKUP            | WILSON RUM 4          | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   | 2101 WILSON DR        |                 |                                        | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | WILSON RUM 4          | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 3704 MALONE & CO. PK  | 300             | A. Williams                            | 2:45        | 355963           |              |
| PICKUP            | WILSON RUM 4          | SUITE           | SIGNATURE (RECEIVED IN GOOD CONDITION) | PIECES      | ADDITIONAL FLOOR | WAITING TIME |
|                   | 12005 RIVERDALE DR    |                 |                                        | RUSH        | ADDITIONAL STOP  | WEIGHT       |
| DELIVER           | WILSON RUM 4          | SUITE           | PRINTED NAME                           | TIME        | TICKET #         |              |
|                   | 445 12th ST SW        | 325             | D. Davis                               | 9:12        | 355859           |              |

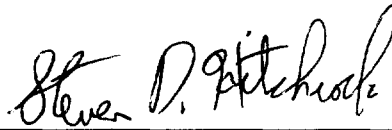
**AFFIRMATION OF SERVICE**

I, Steven D. Hitchcock, hereby affirm, under penalty of perjury, that I am an associate with Technology Law Group, LLC, attorneys for PriceInteractive, Inc., am over 18 years of age, and am not a party to this action. On the 6th day of May, 1999, the within "Motion Requesting that the Commission Accept as Timely, *Nunc Pro Tunc*, Reply Comments Filed By Priceinteractive on May 4, 1999," were served by hand upon the following persons at the addresses indicated:

Magalie Ramon Salas  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., TWA-325  
Washington, D.C. 20554  
(original and four copies)

Kimberly Parker  
Federal Communications Commission  
Common Carrier Bureau  
445 12<sup>th</sup> Street, S.W., Room 5C-827  
Washington, D.C. 20554  
(diskette copy)

International Transcription Service, Inc.  
1231 20<sup>th</sup> Street, N.W.  
Washington, D.C. 20037  
(diskette copy)



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Steven D. Hitchcock

Dated: May 6, 1999